

NOVA SCOTIA COURT OF APPEAL
Citation: R. v. MacEachern, 2007 NSCA 69

Date: 20070608
Docket: CAC 273586
Registry: Halifax

Between:

Shawn Bernard MacEachern

Appellant

v.

Her Majesty the Queen

Respondent

Judge: The Honourable Justice Fichaud

Appeal Heard: May 30, 2007, in Halifax, Nova Scotia

Subject: **Arrest - right to be informed of entitlement to counsel -
exclusion under *Charter* s. 24(2)**

Summary: Police detained accused and questioned him before advising of right to consult counsel. Police arrested and informed accused of counsel rights, then searched, finding narcotics. Accused was convicted of trafficking.

Issue: Did the trial judge err by not excluding the narcotics evidence under s. 24(2) of *Charter*?

Result: Accused was detained and police violated s. 10(b) by questioning him before advising of right to counsel. The search violated s. 8 of *Charter*. The trial judge made no error in declining to exclude the evidence under s. 24(2). The evidence was not conscriptive. The police had reasonable grounds to arrest and the *Charter* breach was not wilful. The evidence was critical to the prosecution of a serious charge.

<p>This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 14 pages.</p>
